

SEP 18 2003

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF ILLINOIS

**RECEIVED**

SEP 18 2003

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

CAMERON OWNBEY, individually  
and d/b/a/ Ultimus and First National  
Investments,

Defendant.

JUDGE JOHN A. NORDBERG  
UNITED STATES DISTRICT COURT

Civil Action No. 03 C 6592

Judge John A. Nordberg

Magistrate Judge Sidney I. Schenkier

**CONSENT ORDER OF PRELIMINARY INJUNCTION  
AND OTHER ANCILLARY RELIEF AGAINST CAMERON OWNBEY**

Plaintiff, Commodity Futures Trading Commission ("Commission" or "CFTC"), has filed a Complaint against Cameron Ownbey, individually and d/b/a Ultimus and First National Investments ("Ownbey or Defendant"), seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 1 et seq. (2001), and Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. (2003). Specifically, the Complaint alleges that Defendant has engaged, is engaging, or is about to engage in acts and practices which violate Sections 4b(a)(2)(i) and (iii), Section 4o(1) and Section 4m(1) of the of the Commodity Exchange Act ("Act"), as amended, 7 U.S.C. §§ 6b(a)(i) and (iii), 6o(1) and 6m(1)(2000), and Commission Regulations 4.31 and 4.36, 17 C.F.R. §§ 4.31 and 4.36 (2003).

Defendant Ownbey, without admitting the allegations of the Complaint for the purposes of this Consent Order of Preliminary Injunction and Other Ancillary Relief ("Order"), except as to jurisdiction and venue, which he admits, consents to the entry of this Order and states that his consent is entered voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, to induce them to consent to this Order.

**THE PARTIES AGREE AND THE COURT FINDS THAT:**

1. This Court has jurisdiction over the subject matter of this action and defendant Ownbey.
2. Venue properly lies with this Court.
3. Defendant Ownbey enters his appearance and acknowledges receipt of the Summons and Complaint.
4. Defendant Ownbey waives the entry of findings of facts and conclusions of law for purposes of this Order pursuant to Rule 52 of the Federal Rules of Civil Procedure.

**DEFINITIONS**

For the purposes of this Order, the following definitions apply:

5. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts including bank accounts and accounts at financial institutions, credits, receivables, lines of credit, contracts including spot and futures contracts, insurance policies, and all cash, wherever located.

6. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

7. "Defendant" means Cameron Ownbey, individually and d/b/a Ultimus and First National Investments, and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of Cameron Ownbey, d/b/a Ultimus and First National Investments, and any person who receives actual notice of this Order by personal service or otherwise, including facsimile, insofar as he or she is acting in concert or participation with Cameron Ownbey, d/b/a Ultimus and First National Investments.

**RELIEF GRANTED**

**ASSET FREEZE**

8. **IT IS ORDERED** that Defendant Cameron Ownbey, individually and d/b/a Ultimus and First National Investments, is restrained and enjoined from directly or indirectly withdrawing, transferring, removing, dissipating, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, converting, or otherwise disposing of any funds, assets or other property, wherever located, including funds, property or assets held outside the United States, except as ordered by the Court. The assets affected by this Paragraph shall include both existing assets and assets acquired after the effective date of this Order.

9. **IT IS FURTHER ORDERED** that, pending further Order of this Court, any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any funds, assets or other property of Defendant, or has held, controlled, or maintained custody of any funds, assets or other property of Defendant, and who receives notice of this order by any means, including facsimile, shall:

A. Prohibit Defendant and any other person from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

B. Deny Defendant, and all other persons access to any safe deposit box that is titled in the name of Defendant, either individually or jointly; or otherwise subject to access by Defendant;

C. Provide counsel for the CFTC within five (5) business days of receiving a copy of this Order, a statement setting forth:

(i) the identification number of any account or asset titled in the name, individually or jointly, of Defendant, or held on behalf of, or for the benefit, of Defendant;

(ii) the balance of any account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed within the past year, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

(iii) the identification of any safe deposit box that is either titled in the name, individually or jointly, of Defendant, or is otherwise subject to access by Defendant;

D. Upon the request by the CFTC, promptly provide the CFTC with copies of all records or other documentation pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

E. Cooperate with all reasonable requests of the CFTC relating to implementation of this Order, including producing records related to Defendant's accounts.

**PROHIBITION AGAINST VIOLATIONS OF THE ACT**

10. **IT IS FURTHER ORDERED** that Defendant Cameron Ownbey, d/b/a Ultimus and First National Investments, is restrained and enjoined from directly or indirectly in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other persons, where such contract for future delivery was or could be used for (A) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (B) determining the price basis of any transaction in interstate commerce in such commodity, or (C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof,

A. cheating or defrauding or attempting to cheat or defraud other persons; and willfully deceiving or attempting to deceive other persons in violation of Section 4b(a)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(i) and (iii) (2000);

B. acting as a CTA and directly or indirectly employing a device, scheme or artifice to defraud clients or potential clients, or engaging in transactions, practices or a course of business which operate as a fraud or deceit upon clients or potential clients by using the mails or

other means or instrumentalities of interstate commerce in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1);

C. acting as a CTA for compensation or profit and engaging in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1); except for activities exempted from registration pursuant to Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. § 4.14(a)(9); and

D. acting as a CTA and failing to deliver to clients or prospective clients a true and accurate and up to date Disclosure Document containing the information set forth in Regulations 4.34 and 4.35, 17 C.F.R. §§ 4.34 and 4.35, in violation of Regulation 4.31 and 4.36, 17 C.F.R. §§ 4.31 and 4.36.

#### **PROHIBITION AGAINST SOLICITATION OF NEW BUSINESS**

11. **IT IS FURTHER ORDERED** that Defendant and any other person or persons acting in concert or participation with the Defendant, are prohibited from soliciting new customers or soliciting, accepting or receiving funds or other property from an existing or prospective customer or investor while acting as a CTA for compensation or profit and engaging in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives

transaction execution facility; except for activities exempted from registration pursuant to Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. §4.14(a)(9).

**PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

12. **IT IS FURTHER ORDERED** that the Defendant and all persons or entities who receive notice of this Order by personal service or otherwise, including facsimile, are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of any Defendant.

**ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

13. **IT IS FURTHER ORDERED** that representatives of the CFTC be allowed immediately to inspect the books, records, and other documents of the Defendant and his agents including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are in the possession of the Defendant or others, and to copy said documents, data and records, either on or off the premises where they may be situated including but not limited to:

- A. A list of all persons and entities who purchased the futures trading recommendations described in the Complaint in this action, including the name, address, telephone number, dates of purchase, and amounts paid by each customer;
- B. Copies of all commodity brokerage account documents reflecting all trades made based on defendant's trading recommendations;
- C. Copies of all statements of account sent to or maintained on behalf of any customer; and

D. All financial records relating to every transaction in which any funds or other assets of any kind, or the interest or accrual on such funds, directed on behalf of customers in the matters alleged in the Complaint in this action were received, transferred, invested, or otherwise disposed of or expended.

**SERVICE OF ORDER**

14. **IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of Defendant, or that may be subject to any provision of this Order.


**BOND NOT REQUIRED OF PLAINTIFF**

15. **IT IS FURTHER ORDERED** that Plaintiff CFTC is an agency of the United States of America and, accordingly, no bond need be posted by Plaintiff.

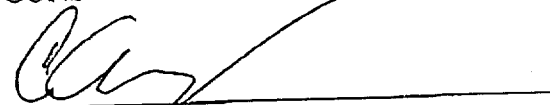
16. This Order shall remain in effect until further order of the Court and the Court shall retain jurisdiction over this action to ensure compliance with this Order and for all other purposes related to this action.


**IT IS SO ORDERED.**

DATED: September 18, 2003

  
The Honorable John A. Nordberg  
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:

  
Cameron Ownbey  
Defendant

  
Louis V. Tracger  
One of the Attorneys for  
Commodity Futures Trading Commission  
525 West Monroe Street, Suite 1100  
Chicago, Illinois 60661  
(312) 596-0563  
(312) 596-0714 (facsimile)  
ltracger@cftc.gov